IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

WP(C).No. 14277 of 2007(Y)

PETITIONER:

REENA.M.G.,D/O.GOPALAKRISHNAN,
VIKAS, 13/417, NEW COLONY,MANKAVU, PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY
   CHIEF SECRETARY,GOVERNMENT SECRETRIAT,
   THIRUVANANTHAPURAM.

2. UNDER SECRETARY-II, GOVERNMENT WING,
   (RECRUITMENT),KERALA, PSC,PATTOM.
   THIRUVANANTHAPURAM.

3. THE VILLAGE OFFICER,PALAKKAD-III,
   VILLAGE,PALAKKAD.

BY G.P. SHRI.T.T.MAHAMOOD.

SRI.ALAXANDER THOMAS, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.14277 of 2007

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Dated this the 17th day of October, 2007

J U D G M E N T

The petitioner is the daughter of an inter-caste married couple. Her father is a Hindu belonging to the Vilakkithala Nair community and her mother belongs to Latin Catholic community. According to the petitioner, she was brought up as a Latin Catholic and therefore, she is entitled to reservation as a Latin Catholic. Therefore, when applications were invited by the PSC for the post of Higher Secondary School Teacher (Senior) in Physics, as per the notification dated 14.11.2005 the petitioner applied showing her caste as Latin Catholic. The petitioner thereafter approached the third respondent for issuance of a community certificate for production as required by the PSC. The third respondent issued her a caste certificate showing as Hindu Vilakkithala Nair stating that, as per the Government orders in force, the children of inter-caste married couple are entitled to

caste certificate showing her father's caste. The 2nd respondent refused to accept the certificate on the ground that the caste name shown in the application form and the certificate are different. Thereafter, the PSC published a list of candidates found eligible to be called for interview for the post. The petitioner approached this court since her name was not included in the list. The counsel for the petitioner submits that whatever be the reason, the petitioner's application is liable to be accepted and her case should be considered at least in the open category, which has not been done.

2. The standing counsel for the PSC brings to my attention a judgment of a learned Single Judge of this court in W.P(C).No. 33754/2006, in which this court held that after showing her caste as Ezhava in the application form submitted before the PSC, the petitioner cannot later claim that she is entitled to reservation as a Latin Catholic in the rank list. That decision was confirmed in W.A.No.2393/07. In the above circumstances the learned Standing Counsel for the PSC submits that the petitioner's application cannot be considered.

3. The learned counsel for the petitioner submits that

even if her caste certificate cannot be accepted, the PSC cannot simply reject her application, but she has to be considered at least as an open merit candidate.

4. As far as the question of community status is concerned, in view of the Government order which was in force at the time of publication of the notification inviting applications, the petitioner ought to have shown her caste as Vilakkithala Nair, which the petitioner has not done. That defect cannot be cured now in view of the above said judgment cited by the Standing Counsel for the PSC. However, the petitioner is certainly entitled to be considered as an open merit candidate. Therefore, if the petitioner has obtained sufficient rank in the written examination for inclusion in the short list, petitioner's name shall be so included in the open merit category. With the above direction, the writ petition is disposed of.

Sd/-
sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.